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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,106	03/06/2002	Joseph F. Wodka	IND10275	7949

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EXAMINER

DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
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3622

NOTIFICATION DATE	DELIVERY MODE
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06/29/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.Schaumburg@motorola.com
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Office Action Summary	Application No. 10/092,106	Applicant(s) WODKA ET AL.	
	Examiner Arthur Duran	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/13/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-26 have been examined.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-24 drawn to the steps of an RFID device conveying incentive information, classified in class 705, subclass 14.
 - II. Claims 25-26 drawn to RFID devices in sets located in different geographic areas, classified in class 705.

Inventions I and II are based on different sets of Independent claims. Group I involves conveying incentive information. Group II involves RFID devices in sets located in different geographic areas.

Because these inventions are distinct for the reasons given above and the search required for Group I is different than the search required for Groups II, restriction for examination purposes as indicated is proper.

During a telephone conversation with James Lamb at (847)576-5054 on 2/20/2007 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-24. Affirmation of this election must be made by applicant in replying to this Office action. Claims 25-26 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2-6, 18, 21-23, 7-12, 15-17, 19, 20, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz (6,587,835) in view of Hohberger (2003/0061947).

Claims 1, 23, 7-12, 15, 16, 22: Treyz discloses a method comprising the steps of:

communicating with a radio frequency identification ("RFID") device, wherein the RFID device is associated with an item (col 26, line 65-col 27, line 45);

selecting an incentive for the item (Figures 58, 87, 99; col 3, lines 15-25); and

programming the incentive into the RFID reading device at one of the following events: point-of-decision to purchase the item, point-of-purchase of the item, or point-of-distribution of the item (Figures 58, 87, 99; col 3, lines 15-25).

Treyz does not explicitly disclose that the RFID device item/product is programmed with the incentive.

However, Wodka (Applicant's Specification) discloses that it is old and well known that coupons/incentives can be associated with products/items (Wodka [4,5]).

And, Hohberger discloses promotions/coupons with an RFID device that are related to products/items ([105, 115]; claims 164-167).

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Wodka and Hohberger's RFID coupons associated with items to Treyz's use of RFID devices and coupons/incentives. One would have been motivated to do this in order to coupons that can be better tracked/controlled.

Also, in regards to claim 23, Treyz discloses displaying the incentive on a user device; downloading the incentive into the user device at point-of-decision to purchase the item; and applying the incentive to the item at point-of-purchase of the item (Figures 58, 87, 99; col 3, lines 15-25).

The above features also apply to claim 7.

Hohberger further discloses utilizing various coupling techniques with RFIDs ([84]).

The above citations from Hohberger also apply to claims 9-11.

Hohberger further discloses utilizing dipoles with RFIDs ([84]).

Also, in regards to claim 12, Treyz further discloses the RFID in the item (col 25, lines 5-15). And, Wodka states that it is old and well known that the coupon can be inside the item ([4, 5]).

Claims 2, 3, 17, 19, 20, 24: The combination of the prior art discloses the above.

Treyz does not explicitly disclose that the RFID device is reprogrammable.

However, Treyz discloses sending new coupons and coupon values at various points in the purchase process (col 48, lines 14-22; col 55, lines 30-41; col 58, lines 30-37).

And, Hohberger discloses reprogrammable RFIDs (claims 102, 158, 47, 101, 97; claims 167, 169, 172).

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Hohberger's reprogrammable RFIDs to Treyz's RFIDs, targeted promotions, and dynamic targeting/coupons . One would have been motivated to do this in order to better present promotions of interest to the user.

Claim 4: Treyz discloses the method of claim 1 wherein the step of selecting an incentive for the item is based on a set of parameters (col 48, lines 14-22; col 55, lines 30-41; col 58, lines 30-37).

Claim 5: Treyz discloses the method of claim 4 wherein the set of parameters is specific to a consumer of the item (col 48, lines 14-22; col 55, lines 30-41; col 58, lines 30-37).

Claim 6: Treyz discloses the method of claim 4 wherein the set of parameters is specific to a consumer of the item and selected from a group consisting of the following: a profile of the consumer, a purchase history of the consumer, product loyalty of the consumer, and a shopping list provided by the consumer (col 48, lines 14-22; col 55, lines 30-41; col 58, lines 30-37).

Claim 18: The prior art discloses the above.

Treyz does not explicitly disclose that the RFID device is programmed with a first set of data from a first source and a second set of data from a second source. However, Treyz further discloses numerous data sources (Fig. 1; Fig. 2; throughout Treyz specification).

Hohberger further discloses numerous RFID programmings (claims 102, 158, 167, 169, 172).

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Treyz RFIDs can be programmed with data from multiple sources. One would have been motivated to do this in order to put better data of value on the RFID.

Claim 21: The prior art discloses the above.

Treyz does not explicitly disclose the step of selecting occurs by touching the RFID device. However, Treyz discloses touching the item to obtain more information (Fig 21, item 284). And, the RFID being touched is a range of the RFID being near. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the RFID can be touched to obtain the information. One would have been motivated to do this in order to better assure the RFID is communicated with.

4. Claims 13, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz (6,587,835) in view of Hohberger (2003/0061947) in view of Overhultz (7,021,535).

Claim 13: The prior art discloses the above.

Treyz does not explicitly disclose reprogramming the RFID device to a default incentive after an expiration period has expired for the incentive. However, Overhultz discloses expiration related to RFID devices and RFID promotion/coupon devices and that parameters can be changed after expiration ([120]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Overhultz's expiration with changing values to Treyz's RFID and coupons. One would have been motivated to do this in order to better present a coupon of interest/use/value to the user.

Claim 14: The prior art discloses the above.

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Treyz does not explicitly disclose coupling with the RFID device in a monopole configuration. However, Treyz discloses utilizing RFIDs. And, Overhultz discloses coupling with the RFID device in a monopole configuration (Fig. 5). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Overhultz RFID communication standards to Treyz RFID utilization. One would have been motivated to do this in order to better utilize standard RFID communications standards and protocols.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz (6,587,835) in view of Hohberger (2003/0061947) in view of Dixon (20050029798).

Claim 13: The prior art discloses the above.

Treyz does not explicitly disclose reprogramming the RFID device to a default incentive after an expiration period has expired for the incentive. However, Dixon discloses expiration related to RFID devices and that various parameters can be changed after expiration ([49, 79]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Dixon's expiration with changing values to Treyz's RFID and coupons. One would have been motivated to do this in order to better present a coupon of interest/use/value to the user.

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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a) Deaton (5687322) and Barnett (6321208) discloses a variety of couponing techniques including dynamic coupons;

b) Otto (20020134834), Weisz (20020116267), Hind (2002/0165758) disclose RFIDs and promotions/coupons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Arthur Duran
Primary Examiner
2/20/2007